IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 1ST AUGUST 2007 / 10TH SRAVANA 1929

WP(C).No. 23502 of 2007(W)

AGAINST THE ORDER IN IA 1687/2007 IN OS.1046/2006 of PRL.M.C.,ERNAKULAM

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PETITIONER:

M/S. CORPORATION BANK, A BODY CORPORATE
& CONSTITUTED UNDER THE BANKING COMPANIES
(ACQUISITION & TRANSFER OF UNDERTAKING ACT, 1980)
HAVING A BRANCH AMONG OTHER BRANCHES AT VYTTILA
THROUGH THE BRANCH MANAGER.

BY ADV. SRI.N.RAJAGOPALAN NAIR

RESPONDENT:

JOSEPH R.R., S/O. RAPHAEL,
AGED 38 YEARS, RANDUTHAIKKAL HOUSE,
CHAMBAKKARA ROAD, MARADU P.O., ERNAKULAM DISTRICT.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J

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W.P.(C) No.23502 OF 2007

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Dated this the 1st day of August 2007

JUDGMENT

This writ petition is filed challenging the dismissal of the review application I.A.No.1687/2007 in O.S.No.1046 of 2006 of the Prl.Munsiff's Court, Ernakulam. The court below directed the plaintiff to take summons to the first defendant in correct address within a period of 7 days. The plaintiff took out summons, but it was in the very same address. Therefore the court found that even if the summons now produced is received and issued no purpose will be served and therefore dismissed the suit as against the said defendant. To review that order I.A.No.1687 of 2007 was filed. It also met with the same result.

2. So far as issuance of summons is concerned, the plaintiff should be given sufficient opportunity. The plaintiff has taken steps and it asserts that the first defendant is residing in the same address, but he is evading notice by making himself absent. When the plaintiff is so sure, one more chance can be given to repeat notice on the same address and even if it fails, notice can be served by substituted service under Order V rule 20 of the Code of

Civil Procedure. There is no need to dismiss the suit against the 1st defendant at the threshold stage itself.

I find an opportunity has to be given to the plaintiff. Therefore the order under challenge is set aside. The Principal Munsiff's Court, Ernakulam shall direct the plaintiff to take out summons to the first defendant in the very same address and in case of non-service, give another opport

unity for taking out notice by substituted service by publication or otherwise.

Writ petition is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-